

May 30, 2002

The scheduled meeting of the Cleveland County Equalization Board was called to order this 30th day of May, 2002, in the west conference room of the County Office Building by Chairman Walter J. Morris. Roll was called by Dorinda Harvey, County Clerk Secretary and those present were:

Walter J. Morris, Chairman
Pat Ross, Member
Dorinda Harvey, Secretary

Others present were: Denise Heavner, Dirk O'Hara, Laura Cross, Greg Veitch, Chris Mask and Kathy Miller.

After the reading of the minutes of the meetings of May 10, 2002 and May 15, 2002, and there being no additions or corrections, Pat Ross moved that the minutes be approved.

Walter J. Morris seconded the motion.

The vote was: Walter J. Morris, yes, Pat Ross, yes.

Motion carried.

Walter J. Morris stated that before the Board starts with the old business to have a moment of silence for Board Member Pat Thompson who passed away May 27, 2002. Mr. Thompson served this Board well for several years. Mr. Morris wanted the record to reflect that a letter needed to be sent to Mr. Thompson's wife expressing its gratitude for his number of years of service.

Pat Ross stated that she sent Mrs. Thompson a card stating it was an honor working with Pat Thompson.

Chairman Morris called for Continental Resources, Inc., represented by Donna Henthorn, P. O. Box 1032, Enid, OK 73702 for 5-9N-2W, Heitz Saltwater Disposal, 1998, 1999, 2000, 2001. Mr. Morris stated that the Board has an opinion from Mike McDanel, Assistant District Attorney, that the Assessor's Office has the right to go back three years plus interest under Title 68, O.S. 2844. Mr. Morris moved to compromise the amount to the liquidated value of \$30,381.53. Pat Ross seconded the motion.

The vote was: Walter Morris, yes; Pat Ross, yes.

Motion carried.

(This is for the years 1998, 1999, and 2000).

Upon an agreement reached between the Cleveland County Assessor and Sunny Properties, L.L.C., Represented by James P. Kelley, 211 N. Robinson, Suite 800, Oklahoma City, OK 73102 for OCC2 10 3W 8037 Part of the NE/4, Section 8, Township 10, Range 3West, Walter J. Morris moved, seconded by Pat Ross that the total market value be \$3,565,000.00.

The vote was: Walter J. Morris, yes; Pat Ross, yes.

Motion carried.

Chairman Morris called for Brookhaven Gardens, L. L. C., represented by Dirk O’Hara, 1050 Rambling Oaks Drive, Norman, OK 73072 for NC29 SPS14 1 2001, Lot 2 Block 1, Springbrook, Sec. 14.

Denise Heavner, Assessor, stated that David Tinsley, First Deputy in the Assessor Office was unable to attend the meeting today but she would give the information he found.

There was one additional sale in Tulsa County and that sale comes out to \$74,000.00 per unit. Mr. Tinsley proposal is to put Brookhaven Gardens, L.L.C. on for \$35,566.00 per unit, which is a value of \$1,850,000.00. The problem was discussed that so many of the other sales that the Assessor’s Office has are older facilities and this one is in Tulsa is about the only one that was found that was a newer facility.

Walter J. Morris asked if the fees charged in the home differ if it is an old facility verses a new facility.

Denise Heavner stated that was information she is trying to dig up and as the Board knows she has been having trouble getting some of this information.

Chairman Morris asked if it was appropriate for this Board to recommend to the Assessor that this category as a whole should be revisited.

Denise Heavner stated that was fine with her and she intended to do that anyway.

Walter J. Morris asked Dirk O’Hara if Mr. Tinsley had visited with him on what the Assessor’s Office was proposing and Mr. O’Hara replied in the affirmative.

Mr. O’Hara stated he still disagreed with the Assessor’s proposal. The reason why was the home that is in Tulsa that sold in 1998 was the Jewish Community Home, which is religious based and they spend a lot of money, because they are non-profit and its more of a religious aspect. Mr. O’Hara spoke of a home (religious) in Oklahoma City that spent \$2.5 million on a chapel that had nothing to do with the housing part and he thinks it was valued at \$77,000.00 or something a bed. He referred back to the sheet that he had given the Board a couple of weeks ago.

Walter J. Morris asked Mr. O’Hara about the difference between fees charged in an older facility verses a new one as far as private pay.

Mr. O’Hara stated it would be the same.

Mr. Morris wanted to know why people would consider older facilities verses new ones.

Mr. O’Hara stated they shouldn’t.

Pat Ross stated it could be location and Mr. O’Hara agreed adding that someone they know could work there, or another relative was there and they are use to the staff. There are lots of different factors.

Mr. Morris stated again that this category should be revisited and no matter what the Board’s decision is today someone is going to be unhappy. A lot of this is Mr. O’Hara industry’s own fault because they don’t want to do income stream, they don’t want to give information so the Assessor is almost forced to do a replacement type appraisal and that is probably not a fair way to do it in the category where Mr. O’Hara is restrained under the fees he can charge.

Mr. Morris stated, that Mr. O’Hara’s industry needed to work with the Assessor and try to work out some standards. The object of the Equalization Board is to make Mr. O’Hara equally treated and Mrs. Heavner is trying to do this to the best of her ability based on the replacement cost. You (Mr. O’Hara) have a new structure and the others are twenty to thirty years old and following that standard you are going to be assessed a lot higher.

Mrs. Heavner stated that Mr. Tinsley did both an income approach and a replacement cost approach took both figures and settled on a value of \$1,850,000.00.

Mr. Morris asked if Mr. O'Hara would sell his home for \$1,850,000.00 and Mr. O'Hara stated he didn't know because of his facility next door the assisted living center which gives him a flow through to the place where people are ultimately going to be. His home has 26,000 square feet; it is wood frame, part brick veneer, and part wood siding structure.

Mr. Morris doesn't disagree with Mr. Tinsley approach, but this whole category is up and down and again the list was discussed.

Mrs. Heavner stated that next year her office is going to look at everyone of the facilities, the condition, age, and try to get information on income stream if she can and try to figure out why there is such a large range on these homes, but she thinks it is the year that the homes were built and where the homes are located.

Mr. O'Hara doesn't think his facility would sell for \$27,000.00 per bed and disagrees with Mr. Tinsley's income stream analyses of \$1,725,000.00.

The Board stated it was trying to be equal and fair.

Pat Ross moved, seconded by Walter Morris, that it be assessed at \$28,000.00 per unit.

The vote was: Walter Morris, yes; Pat Ross, yes.

Motion carried.

Chairman Morris called for Enogex Gas Gathering L.L.C., represented by Greg Veitch, P. O. Box 321 M/C 804, Oklahoma City, OK 73101-0321 for GEO Number SD40 and SDC2, account numbers 98127 and 98155. Mr. Greg Veitch with Enogex stated that for the record he has enjoyed working with Mrs. Heavner and this protest is nothing personal. Mr. Veitch stated that he would sell his gathering system for what it is assessed for.

Mrs. Heavner stated that this involves two different accounts and the value that Mr. Veitch is asking for is \$116,689.00 and the Assessor's Office has it at \$232,986.00. This is for this year.

Mr. Veitch is speaking of gas gathering lines and there are about 4.8 miles of lines in Cleveland County.

Chris Mask (with VLS) gave the Board documents and explained to the Board how they built their cost schedule off of companies internal AFE's.

Mr. Morris asked Mr. Veitch if he had seen the documents and he replied he had. Mr. Morris asked if he disagreed and again he replied he did.

Mr. Veitch disagreed with the cost schedule and the method of complying it.

Mr. Mask stated that his numbers are coming from internal documents from oil and gas companies, authority for expenditures per cost for laying pipeline.

Mr. Veitch also gave the Board documents and stated that his rendered values are based on the Oklahoma Tax Commission schedule. The Oklahoma Tax Commission schedule for four (4) inch pipe is \$11.71 and he gave the Board excerpts from the Oklahoma Tax Commission schedule.

Mr. Morris asked Mr. Mask why did he set this up at \$15.00 and Mr. Mask stated that one of the reasons was the summary of the sales of Trans-ok and the value is 2 million less than what the property sold for using the cost approach. This is one way to check the validity of the cost that they put on the pipe.

Mr. Morris asked why the guidelines were published.

Denise Heaver stated that they are just guidelines that the Tax Commission once used and she is sure they used them for some time.

Mr. Veitch stated he had statutes that address this and gave copies to the Board. He stated that the statutes gave the Tax Commission permission to provide the guidelines and direct the Assessor's to use them as general guidelines, but he doesn't think they are required to use them. They are there for the assistance of the Assessor. The statutes are 1991 and every year the Oklahoma Tax Commission publishes the schedules and most of the counties in Oklahoma use this schedules and cost numbers. Most of the companies render their cost based on the schedule so it is widely accepted in the State of Oklahoma. There are very few counties that use the schedule that Mrs. Heavner started using this year.

Mrs. Heavner stated that she is sure there will be several law suit this year about this same issue.

Mr. Morris asked if Mr. Veitch laid the line or bought the line and Mr. Veitch stated he was sure his company laid it. Mr. Morris asked Mr. Veitch if he was willing to submit the cost per foot as to what was paid for the pipe.

Denise Heavner stated the difference in this county is only about \$1,300.00 where is other counties it is in the millions and it started with the counties in the western part of the State.

Mr. Veitch stated that this pipe was constructed in 1988 and he has not gone back to see what the original cost was. For simplicity purposes most companies do render, based on the Oklahoma Tax Commission schedule because it is a simple schedule to follow, widely accepted and it keeps companies from having to go back and dig up those old cost. Mr. Veitch was asked if he could buy four (4) inch pipe for \$11.71 and he stated it depends on which jobs are looked at and the length of the pipe. The longer the runs and the more pipe that is installed you get better cut rate deals from suppliers.

Mr. Morris asked if the lowest pipe out there could be bought for \$11.71 and Mr. Veitch didn't have that information.

Where Mr. Veitch disagrees with Mr. Mask is that a lot of the AFE's have been taken from his (Mr. Veitch's) company and most of them are for short run well connect. Mr. Veitch was asked why his company did not stock pile pipe and he could not answer he did not know if it was a storage issue, availability, he was not sure.

Mr. Mask stated that the cost scheduled that was used was two (2) million less that what it sold for and Mr. Morris asked if all of these properties have sold. Mr. Mask stated they used to be Trans-ok.

Mr. Veitch stated not this property it has always been Enogex.

Mr. Mask stated that using the cost scheduled using the Trans-ok sale it was two (2) million less.

Denise Heavner stated the reason for hiring this company (VLS) was to find the companies that were not rendering at all. A list of companies are being investigated right now because they cross county roads and that is how we find out who is suppose to be turning in rendition.

Mr. Morris asked if the same \$15.00 amount would be used across the board and Mrs. Heavner stated it would be used on all of them. She has assessed other companies the same and they have not protested.

Mr. Veitch stated that in comparing the two schedules, Mr. Mask's schedule is mostly complied from AFE's and the numbers do not reflect market value, as far as sales and purchases that have gone on in the State for several years, which the Oklahoma Tax Commission schedule considers market sales, etc.

Mr. Morris stated that the law says this Board has to make you (Mr. Veitch) equal, not give preferential treatment and not penalize. If Mrs. Heavner is treating you fairly and she has

documentation of the numbers than this Board has to accept those to make him equally treated.

Mr. Veitch stated that he also disagrees on the depreciable life and told the Board that Mrs. Heavner was using thirty (30) year life where the Oklahoma Tax Commission is using twenty-five (25) year life, the IRS and Marshall-Swift is using fourteen (14) year life and he rendered twenty (20) year life.

Mr. Mask is recommending thirty (30) year life and there has been a court decision on that. Walter J. Morris moved, seconded by Pat Ross, that there be no change in Enogex Gas Gathering L.L.C.

The vote was: Walter J. Morris, yes; Pat Ross, yes.

Motion carried.

Chairman Morris called for Rivermont at the Trails, represented by Laura L. Cross, 2900 Oklahoma Tower, 210 Park Avenue, Oklahoma City, OK 73102-5605 for Application for Ad Valorem Tax Exemption being denied as being filed untimely. Mrs. Cross stated that this was an initial application and a previous application has not been filed. She would like to show the Board a statute that was in-acted in the year 2000 which allowed for a charitable intervention and she gave the Board copies of the statute. The statute number is 2887.1, which say in part “that the property shall be exempt from the date of acquisition thereof by the charitable institution until the earlier date disposition and the charitable institution annually show evidence continuing compliance”. The first form they received did not have the March 15th date on it at all and then the next form they received that was submitted did have the March 15th day of it and that was given to them on March 4th.

Mr. Morris asked why it took so long to apply for the exemption since it was purchase in 1998 and Ms. Cross explained all that had happened and all of information she had to obtain from the residents of Rivermont.

Ms. Cross stated that this was purchased with tax-exempt bond and they are financing it with a mortgage. Ms. Cross also had a letter from Representative Doug Miller, which she presented to the Board.

Mr. Morris asked Mrs. Heavner if Mike McDanel, Assistant District Attorney, had ever given an opinion as to whether the Board has the right to grant an exception after the date and Mrs. Heavner did not know of any.

Ms. Cross stated that in the application form it says an annual affidavit must be filed it doesn't say any thing about the initial application must be filed by March 15th.

Mrs. Heavner said she called the Tax Commission and was advised that it had to be in by March 15th because all exception affidavits had to be in at that time.

Ms. Cross say the law say it goes back to the date of acquisition.

Mr. Morris wondered if Mr. McDanel would give a quick opinion and this Board needs to seek legal counsel. Mr. Morris explained how the Equalization Board has to operate.

More discussion took place as to what Mr. McDanel would be asked.

Ms. Cross stated there is a difference between the initial application and continuing compliance.

Ms. Kathy Miller, administrator of Rivermont, stated that they are paying \$90,000.00 a year in taxes and that they are a true non-profit company.

Ms. Cross stated that they qualify as a charitable organization because they have to have so many beds available to people of low income housing, they pay less, (no Medicaid or

Medicare at all) this is apartment housing and those people pay at a lower rate than what the charges are. In exchange for that Rivermont qualifies as a charitable organization for the tax exemption.

Walter J. Morris moved, seconded by Pat Ross, to table Rivermont at the Trails, represented by Laura L. Cross, 2900 Oklahoma Tower, 210 Park Avenue, Oklahoma City, OK 73102-5605 for Application for Ad Valorem Tax Exemption being denied as being filed untimely.

Ms. Cross stated that she would not be available for the meeting tomorrow and Mr. Morris stated that the Board would follow Mr. McDanel advice.

Mr. Morris was concerned that if it is filed back for years then can they get reimbursed for those years. If that is the case then the Board might as well grant it and that is one of the questions that Mr. McDanel has to address.

The vote was: Walter J. Morris, yes; Pat Ross, yes.

Motion carried.

Since Ms. Cross can not be available tomorrow Ms. Kathy Miller will represent Rivermont.

There being no further business to come before the Board, Pat Ross moved that the meeting be adjourned. Walter J. Morris seconded the motion.

The vote was: Walter J. Morris, yes; Pat Ross, yes.

Motion carried.